

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In the Matter of)
)
 Policy and Rules Concerning the)
 Interstate, Interexchange Marketplace) CC Docket No. 96-61
)
 Implementation of Section 254(g) of the)
 Communications Act of 1934, as amended)

REPLY TO OPPOSITION

Pursuant to Section 1.429 of the Commission's rules, 47 C.F.R. § 1.429, the Telecommunications Management Information Systems coalition (the "Coalition")¹ hereby submits this Reply to AT&T's Opposition to and Comments on Petitions for Reconsideration and Clarification of the Commission's Second Report and Order released in the above-captioned proceeding on October 31, 1996 ("Order"). The Coalition also briefly replies to other oppositions and initial petitions filed in this proceeding.

ARGUMENT

I. AT&T's Exaggerated Claims Of Hardship Do Not Outweigh The Important Public Need For Pricing Information

AT&T opposes the Coalition's Petition for Clarification ostensibly because it would add to carriers' costs "without providing substantial benefits for consumers."² In seeking detailed pricing information, however, the Coalition is not seeking a requirement that should

¹ The Coalition is composed of three telecommunications management information systems companies and was formed for the purpose of participating in this proceeding. The three companies are Salestar, Center for Communications Management Information ("CCMI"), and Tele-Tech Services ("Tele-Tech").

² AT&T Opposition at 2.

substantially add to carriers' costs. Indeed, the information sought by the Coalition presumably is already kept by the carriers in the normal course of business in order for them to prepare bills for their customers. The Coalition merely asks that this already-existing information be made available to the public. It does not seek the compilation and creation of "new" information.

AT&T's claim that this information -- even if provided -- would not substantially benefit consumers is undercut by views expressed in this proceeding by a significant number of consumer organizations, public interest organizations and state governments. These groups correctly argue that detailed pricing information will: (1) enable consumers and the Commission to enforce the geographic rate averaging and rate integration requirements of Section 254(g) of the Act; (2) enable consumers to make fully informed service decisions; and (3) enable consumers to determine if they are being discriminated against by a carrier (and correspondingly file complaints only when there appears to be a basis for doing so). These benefits are hardly insubstantial.

Most important, telecommunications services -- unlike many goods and services sold in the marketplace -- remain subject to statutory requirements pursuant to Title II. As the Supreme Court has noted: "The provisions [of the Communications Act of 1934] allowing customers or competitors to challenge rates as unreasonable or as discriminatory . . . would not be susceptible of effective enforcement if rates were not publicly filed."³ In order to satisfy its obligation to enforce these statutory requirements, it is essential for the Commission to mandate *meaningful* availability of pricing information.

³ *MCI Telecommunications Corp. v. American Tel. and Tel. Co.*, 114 S. Ct. 2223, 2231 (1994).

II. Carriers Will Not Provide Sufficiently Useful Information Unless The FCC Specifies What Information Must Be Made Available And When It Must Be Provided

AT&T opposes the Coalition's request that the relevant pricing information be made available on a same-day basis, alleging that the Coalition has not shown that "ordinary commercial channels" for the provision of such information will be inadequate.⁴ To the contrary, the Coalition's experience with AT&T's "ordinary commercial channels" thus far demonstrates that its concerns are justified.

Specifically, AT&T already has detariffed some of its contract offerings. As detailed in Attachment A, members of the Coalition have made inquiries about obtaining this information. As companies that are well informed about carriers' pricing processes, it still required two or three telephone calls to successively referred numbers even to obtain the correct number to initiate an inquiry. Presumably, a random member of the public might take much longer to "hit upon" the right AT&T division in the right location to obtain the information. Once the correct number was called, the process for securing information about the contract offerings was explained as follows: (1) a party requesting pricing information must appear *in person* at AT&T's headquarters in New Jersey; (2) the party must report to a visitor's station and ask to be taken to the reference room; (3) the guard will call the reference room and an escort will come and accompany the party to the reference room; (4) the party is shown a list of the available pricing information; (5) the party must pay 25 cents per page for any information requested; and (6) while some small requests during non-busy periods may be copied while the party waits, any other request will be mailed to the requesting party. AT&T's reference room

⁴ AT&T Opposition at 5.

confirmed that no telephone orders for such information are accepted, no standing orders for regular receipt of the information may be placed, and the information is not available anywhere electronically. The public would have an easier time attempting to access the *X-Files*.

Information provided only in this manner is neither easily accessible nor timely. Certainly it is of no assistance to individual residential consumers or small business consumers without the resources to appear in person in New Jersey. While some larger entities with substantial resources may be able to satisfy the personal appearance requirement by hiring agents to obtain the information, the timeliness of the information is still inadequate in most cases. For example, as the Coalition has noted, hotel and motel owners and private payphone owners who must bill customers on a “real-time” basis cannot usefully function with information that will be copied and mailed at AT&T’s leisure. The Coalition’s concerns about the timeliness of pricing information are entirely warranted.

Finally, AT&T asserts that the Coalition’s concerns about insufficient information are “speculative.”⁵ Although carriers arguably have incentives to provide certain information, they do not have incentive necessarily to provide complete information. The Coalition firmly believes that, without a requirement that pricing information for *all* calling plans be made available, carriers will provide information only about the plans that they are actively marketing at any given time. Information about other plans that are outside the newest “hot” marketing strategy -- but still technically available to the public -- may well not be provided if consumers do not know to specifically request it.

⁵ AT&T Opposition at 5 n.6.

As one example of these incentives at work, one need only call AT&T's 1-800-COMPARE. While this mechanism is a marketing tool, not a mechanism to comply with a Commission-mandated requirement of public availability, the limited information, nevertheless, is illustrative of the point. The operators staffing the 800 number desk tend to provide detailed information on one particular plan, with only passing reference -- if any -- to the existence of other plans. The initial information provided is for the plan that AT&T is focused on marketing at the time. Such anecdotal information clearly indicates, that if left to their own devices, carriers have every incentive to provide only selected pricing information rather than complete pricing information. The Commission must require that complete pricing information on all plans available to the public be provided on a timely and readily accessible basis if the public interest is to be served and the Commission's statutory obligations are to be met.

III. Consumer Groups Share The Coalition's Concerns

Other parties have voiced similar concerns whether carriers will provide timely and sufficiently detailed pricing information under the Commission's vague requirement of public availability of such information.⁶ Some of these parties offer sound suggestions that the Commission should consider in clarifying its public availability requirement. For example, the Rural Telephone Coalition (supported by the States of Hawaii and Alaska) suggests that pricing information be available on-line, in all of a carrier's offices, and/or with the Attorney General or

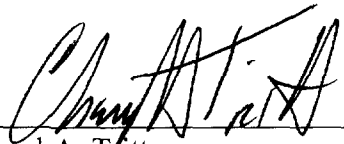
⁶ See, e.g., Petition for Reconsideration/Clarification of the Telecommunications Resellers Association (filed Dec. 23, 1996); Petition for Partial Reconsideration of the Rural Telephone Coalition (filed Dec. 23, 1996) ("RTC Petition"); Opposition and Reply of the State of Hawaii (filed Jan. 28, 1997) ("Hawaii Opposition"); and Opposition of the State of Alaska to Petitions for Reconsideration of Second Report and Order (filed Jan. 28, 1997) ("Alaska Opposition").

public utilities commission in every state.⁷ The Coalition supports any suggestion that improves the availability and timeliness of pricing information to members of the public.

CONCLUSION

In order for carrier pricing information to fully serve the Commission's goals, the Coalition strongly urges the Commission to clarify its requirement of the public availability of pricing information to ensure that complete and timely information is available to the public.

Respectfully submitted,



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Dated: February 7, 1997

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See RTC Petition at 4-5. *See also* Hawaii Opposition at 6-7 and Alaska Opposition at 3-4.

ATTACHMENT A

DECLARATION

I, George David, Publisher of the Center for Communications Management Information ("CCMI"), do hereby declare as follows:

1. On February 4, 1997, I called the AT&T office in Bridgewater to determine how I could obtain pricing information for contract services that have been detariffed.
2. After being referred to two different telephone numbers, I was finally given an 800 number for the AT&T reference room in Bridgewater, New Jersey.
3. After calling the number, listening to a recorded message and then being transferred to a reference room employee, I was told the process for obtaining such information is as follows.
4. A party requesting pricing information must appear in person at AT&T's Bridgewater, New Jersey office on Monday through Friday between the hours of 9:00 am-12:00 noon or 1:00 pm -4:00 pm. Telephone orders for pricing information will not be accepted.
5. The party must report to a visitor's station, where a guard will call the reference room. An escort will be requested to accompany the party to the reference room.
6. The party can review a list of pricing information available and then place the requested order. An up-front, cash payment of \$.25 per page is required.
7. While some small orders (of up to only two documents) may be copied while the party waits if the reference room is not too busy, all other orders will be mailed.
8. There appears to be no other way to obtain this information at present. As stated above, no telephone orders for this information will be accepted. The reference room

confirmed that the information is not available electronically. The staff also stated that no regular standing orders will be accepted.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 6, 1997.



George David

CERTIFICATE OF SERVICE

I, Kathryn M. Stasko, do hereby certify that the foregoing **REPLY TO OPPOSITION** has been furnished, via U.S. Mail on this 7th day of February, 1997, to the following:

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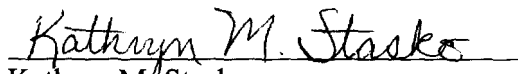
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